

DRAFT

SARC – August 9, 2005

DEPARTMENT OF CONSERVATION AND RECREATION CHESAPEAKE BAY PRESERVATION ACT PROGRAM INITIAL COMPLIANCE EVALUATION REPORT

No. 5

CITY OF WILLIAMSBURG

Local Coordinator: Carolyn Murphy, Zoning Administrator
DCR Liaison: Brad Belo, Senior Environmental Planner
DCR Stormwater Engineer: Kelly Ramsey, P.E., Urban Program Planner

Staff Recommendation

Pursuant to § 10.1-2103 10 of the Act and § 9 VAC 10-20-250 of the Regulations, staff has conducted a compliance evaluation of the City of Williamsburg's local Phase I program and recommends that the City's implementation of its Phase I program complies with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

Background

The Department initiated the compliance evaluation process for the City of Williamsburg by sending a notification letter and local checklist to the City's Planning Department on November 23, 2004. The City's staff met with Department staff on February 3, 2005. At this meeting, City staff provided all of the requested materials from the local checklist, and discussed the City's local Bay Act program, expanding upon many of the questions included in the Department's *Checklist for Local Program Compliance Evaluation*.

A second meeting was held on April 12, 2005 at the City offices to allow Department staff to review site plans and discuss the City's site plan review process and implementation policies. Department staff reviewed eight site plans at this meeting. Five site plans were selected for site visits. These site visits were conducted on April 19, 2005. Copies of the field notes, photographs, site plan review sheets, materials provided by the City and the completed *Checklist for Local Program Compliance Evaluation* are included in the file.

Local staff made every effort to facilitate the Department's review of the City's CBPA program. Throughout the course of this review the Department worked closely with the local program implementation staff, including Reed Nestor, Planning Director, Carolyn Murphy, Zoning Administrator, Jason Beck, Zoning Officer, and Steve Martin, P.E., City Engineer

DRAFT

I. Evaluation and Critique: Elements of the Local Program

The Board originally found the City of Williamsburg's Phase I program consistent with the Act and Regulations on January 25, 1991. The City adopted a regional stormwater program in 1999; the Board approved this stormwater program on September 27, 1999. The City adopted its revised Chesapeake Bay Preservation Overlay Ordinance on December 11, 2003. The Board found the City's revised Phase I program consistent with the Act and Regulations on March 22, 2004. After a previous review in 1993, the Board found the City's Phase II program consistent with the Act and Regulations on June 19, 2000.

The City's Resource Protection Area (RPA) includes all required elements, including a fairly broad "other lands" provision that primarily includes steep slopes as part of its RPA. The City's Resource Management Area (RMA) includes all land situated within 500 feet of the landward boundary of a RPA. The City of Williamsburg has not designated IDAs.

II. Evaluation and Critique: Land Use and Development Performance Criteria

From the beginning the City of Williamsburg has implemented a strong Bay Act program that reflects both the letter and the spirit of the Chesapeake Bay Preservation Act while often exceeding the minimum requirements of the Regulations. For example, though not required by the original Regulations, the City's engineer developed the first Chesapeake Bay Preservation Area (CBPA) map by walking all of the City's streams to determine the actual extent of perennial flow. This initiative resulted in a more accurate CBPA map, which included 60% more area in the City's CBPA than would otherwise have been included if the City had depended solely on USGS mapping. Also notable was the City's decision to require that stormwater management in the CBPA be based on the average impervious cover default of 16% determined for the all of Tidewater rather than the City's actual impervious cover average of 19%.

The City prides itself on striking an effective balance between facilitating development and protecting open space, environmentally sensitive lands and water quality. Over the last three decades the City has also permanently protected hundreds of acres of land around Waller Mill Reservoir, Lake Matoaka and along College Creek in order to protect open space and water quality. The City has pursued conservation easements and participated in land swaps to protect hundreds of additional acres of environmentally sensitive lands. The City is currently conducting an open space inventory to identify significant open space and sensitive environmental features that require additional safeguards.

The City complements its strong regulatory enforcement and open space protection programs with an innovative regional stormwater management program. The program protects water quality by allowing developers to purchase water quality or open space credits. The City's regional stormwater management program helps minimize the expense of monitoring numerous water quality best management practices on private property, ensures proper and timely maintenance by the City's highly trained staff, protects significant amounts of habitat, and provides attractive recreational and aesthetic amenities to the community. The City is also willing to coordinate with private landholders and neighboring localities to implement the most effective and cost efficient stormwater best management practices available. Finally, the City

DRAFT

strives to lead by example on its own projects. For example, the City's new Strawberry Plains Subdivision was designed to cluster its single-family homes in order to permanently protect a significant portion of the site as open space. Furthermore, though nearly the entire developed portion of the site lay outside of the CBPA, the City deliberately oversized the required stormwater best management practice so that the entire property would meet the stormwater requirements of Bay Act.

The Planning Department and the City Engineer enforce the City's Phase I program. The Zoning Administrator and the City Engineer are involved in the review of all plans of development and the enforcement of the City's erosion and sediment control ordinance. Because one or both of these individuals, both of whom have several years of experience with the local Bay Act program, review every development proposal, there is consistent and effective enforcement of the CBPA program requirements throughout the City.

On public land that requires silvicultural management, including the Waller Mill Reservoir, the City coordinates with the Virginia Department of Forestry staff in the James City County office to ensure that approved silvicultural best management practices are utilized. Though the City has adopted a wetlands ordinance the City's topography, hydrology and development pattern results in almost no developable land along tidal wetlands and no interest in the construction of private water access facilities, like docks and piers, and no need for shoreline erosion and sediment control structures. The City requires all failing septic systems to connect to the municipal sewer system and continues to expand the reach of the municipal sewer system to include all remaining septic systems. The City initiated its septic system pump-out program in July 2005 with the mailing of notices to the 11 remaining septic system owners in the City's CBPA.

Stormwater Management Program and Best Management Practices

The City of Williamsburg implements the stormwater quality management provisions of the Regulations through its Stormwater Management Plan and its Stormwater Management Ordinance. The Chesapeake Bay Local Assistance Board found the Stormwater Management Plan and Ordinance constituted a Major Program Modification and consistent with the Chesapeake Bay Act and Regulations on September 27, 1999. The Stormwater Management Plan and Ordinance establishes a regional water quality program that involves the creation and trading of credits associated with dedicated open space and BMP facilities.

Since the adoption of the Stormwater Management Plan and Ordinance, a regional wet pond has been constructed in the James watershed (Skipwith) and in the York watershed (Haynes), and the City has dedicated open space at two locations. The Rich Neck Heights Conservation Area is a 105-acre site in the James River watershed adjacent to College Creek and Route 199 and the Papermill Creek Conservation Area is a 37-acre site in the James River watershed on South Henry Street.

The Department of Public Work and Utilities published two documents related to stormwater management in November 1997. The Williamsburg Stormwater Management Plan details the comprehensive stormwater management policies and framework of the City. The Williamsburg Stormwater Design Manual details the City's plan review procedures, design criteria and methods for storm conveyance systems and stormwater management practice

DRAFT

facilities, and the maintenance requirements for storm conveyance systems and stormwater management practice facilities.

The Department of Public Work and Utilities annually inspects all stormwater management facilities located on public and private property in the City. In addition, the City inspects and maintains the regional stormwater ponds.

In addition to the Stormwater Management Plan and Ordinance, the City has Virginia Pollutant Discharge Elimination System General Permit for Small Municipal Separate Storm Sewer Systems (VPDES MS4 permit) issued on December 9, 2002. Although the City of Williamsburg has not designated its entire jurisdiction as a Chesapeake Bay Preservation Area, stormwater runoff quality is controlled outside the CBPA for disturbances greater than 1 acre.

Overall, the site plans, projects files and site investigation revealed that the City of Williamsburg is appropriately implementing its Stormwater Management Plan and Ordinance. The Stormwater Design Manual is being utilized, although the City does not utilize nor require applicants to use the Site Stormwater Management Plan checklist. Based on the Department's review of the City's stormwater management materials and the field visits conducted by Staff on April 19, 2005, the Department makes the following three stormwater management suggestions:

- For consistency with § 9VAC 10-20-120 8, the City should update its CBPA guidance calculation sheets to be consistent with the water quality calculations in Appendix 5d of the *Virginia Stormwater Management Handbook*.
- The City should always utilize the Stormwater Management Plan checklist to ensure consistent reviews between projects.

Resource Protection Area Performance Criteria Information

The City requires all proposed developments to submit a site-specific determination of all CBPA features and boundaries. The City conducts field visits to confirm all site-specific determinations. The City requires applicants to use either the Fairfax County or North Carolina method to determine the presence of perennial water bodies on or adjacent to a development site.

All new development is required to remain outside of the 100-foot RPA buffer. In some cases, the City is negotiating with developers to provide sufficient area between new principal structures and the landward edge of the RPA boundary to ensure that future expansions of principal structures or the addition of accessory structures can occur without encroaching into the RPA buffer.

The City requires a Water Quality Impact Assessment to be submitted as part of the plan of development review process for any land disturbance in the RPA and for any proposed development or redevelopment in the RMA, unless waived by the Zoning Administrator.

Regulatory Relief Mechanisms

The City's regulatory relief procedures mirror those found in the Regulations and are found in Sections 21-823 (Nonconforming use waivers or modifications) and 21-826 (Exceptions) of the City's ordinance. The City's Board of Zoning Appeals must approve all encroachments not eligible for administrative review. When applicable, the Zoning

DRAFT

Administrator reviews and approves any encroachments into the landward 50-feet of the RPA. All exceptions are required to meet the findings required by 9 VAC 10-20-150 C, which is located in Section 21-826 (Exceptions) of the City's ordinance.

III. Evaluation and Critique: Program Administration and Enforcement

Residential subdivisions, commercial sites and the redevelopment of commercial sites characterize the City's current development pattern. There are few single-family home developments outside of subdivisions and no development of water dependent uses and shoreline erosion and sediment control structures. The City works hard to reduce the imperviousness of each application in order to minimize the need for structural stormwater best management practices. The Zoning Administrator and City Engineer review all site plans for compliance with CBPA, stormwater management and E&S.

The City has had relatively few RPA violations and no civil penalties have been assessed for CBPA violations, though the City can assess such penalties based on its zoning ordinance. The few violations that have occurred are mitigated through replanting based on the *Riparian Buffers Modification and Mitigation Manual*.

IV. Field Investigation

The Department visited five development sites during its field investigation. These sites represent the current development pattern in the City, which is dominated by new residential subdivisions, new commercial development and the redevelopment of commercial sites. All of the sites demonstrated effective implementation and enforcement of the City's Chesapeake Bay Preservation Act program.

Strawberry Plains Subdivision (new residential subdivision)

The Strawberry Plains subdivision is a cluster subdivision being developed by the City of Williamsburg Housing and Redevelopment Authority. Nearly 40 percent of the 28-acre site is dedicated as permanent open space. Almost all of the CBPA on the site was included as permanent open space. Although much of the development occurred beyond the limits of the CBPA, the City required the entire site to meet the water quality stormwater management requirements of its CBPA program. As part of the site's infrastructure development, the City removed six neighboring properties from individual septic systems and placed them on municipal sewer.

Food Lion Grocery Store (commercial expansion)

The expansion of the Food Lion grocery store at 1234 Richmond Road facilitated the creation of a public-private partnership between the City and the developers of the Food Lion. This partnership allowed for the strategic retrofitting and expansion of a water quality best management pond at the rear of the property. The retrofit and expansion of this BMP will allow for future growth and development in the area, but will not require any further disturbance of the RPA, which was and remains heavily forested.

DRAFT

Williamsburg Chrysler-Jeep-Kia (commercial redevelopment and expansion)

The Williamsburg Chrysler-Jeep-Kia at 3012 Richmond Road required the expansion and redevelopment of an older commercial lot. The project purchased nearly \$25,000 worth of water quality credits from the City's Skipwith Regional Pond to meet CBPA water quality stormwater management requirements. The nature of the commercial use did not lend itself to the minimization of impervious surface or the protection of existing indigenous vegetation in the RMA.

Penske Maintenance Facility and Service Center (new commercial development)

The Penske Maintenance Facility at 7239 Pocahontas Trail required substantial land clearing and stormwater management to manage polluted runoff from the planned vehicle service area. None of the RPA on the site was disturbed and vegetation in the RMA was maintained to the maximum extent practicable. Stormwater quality mitigation was provided for the portion of the site that includes the CBPA. A retention (wet) basin was designed and constructed on-site to mitigate the stormwater runoff for quality and quantity control.

Yankee Candle (new commercial development)

The Yankee Candle development required substantial land clearing in the RMA. The commercial nature of the development did not lend itself to the minimization of impervious surfaces and the maintenance of existing indigenous vegetation. However, the City is requiring substantial landscaping throughout the site, between the site and an adjacent neighborhood and along the slopes of Skipwith Regional Pond, which abuts the project. The site appeared to have appropriate erosion and sediment control best management practices in place.

V. Summary of Findings

The City of Williamsburg prides itself on facilitating high quality development that not only meets current market demand, but also protects water quality, open space and the unique historic character of the community. The successful implementation and enforcement of the City's Chesapeake Bay Preservation Act program is complimented and enhanced by an innovative stormwater management water quality program that protects water quality and maintains significant natural habitat and recreation areas as permanent open space. The City's consistent enforcement of its CBPA program over the past 14 years combined with its innovative water quality protection and open space preservation initiatives marks the City of Williamsburg as an outstanding local partner in the protection and improvement of the Chesapeake Bay and Virginia's natural environment.

DRAFT

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD September 19, 2005

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION CITY OF WILLIAMSBURG - #5

Local Compliance Evaluation - Compliant

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

WHEREAS § 9 VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS in the Spring of 2005, the Division of Chesapeake Bay Local Assistance, a Division of the Department of Conservation and Recreation, conducted a compliance evaluation of the City of Williamsburg's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on August 9, 2005 the Local Program Review Committee for the Southern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and,

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now,

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the implementation of the City of Williamsburg's Phase I program is compliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on September 19, 2005 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation



COMMONWEALTH of VIRGINIA
DEPARTMENT OF CONSERVATION AND RECREATION

203 Governor Street, Suite 302
Richmond, Virginia 23219-2010
Phone: (804) 786-6124 Fax: (804) 786-6141

A G E N D A

Southern Area Review Committee Meeting
Tuesday, August 9, 2005 – 2:00 p.m.
101 N. 14th St. – James Monroe Building
Richmond, Virginia

1 Call to Order and Opening Remarks

2 Local Program Reviews: Phase I

- | | | |
|----|----------------------|--------------------------------------|
| A. | City of Newport News | Review of Phase I conditions |
| B. | York County | Phase I – Local Program Modification |
| C. | City of Poquoson | Review of Phase I conditions |
| D. | New Kent County | Review of Phase I conditions |
| E. | City of Petersburg | Review of Phase I conditions |
| F. | Prince George County | Review of Phase I conditions |

3 Local Program Reviews: Compliance Evaluation

- | | | |
|----|----------------------|-------------------------------|
| A. | Accomack County | Deadline extension request |
| B. | Town of Onancock | Initial Compliance Evaluation |
| C. | Town of Hallwood | Initial Compliance Evaluation |
| D. | Town of Belle Haven | Initial Compliance Evaluation |
| E. | James City County | Initial Compliance Evaluation |
| F. | City of Williamsburg | Initial Compliance Evaluation |

4 Other Business

6 Adjourn